



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION (AFC) FOR THE  
**CARLSBAD ENERGY CENTER PROJECT**

DOCKET No. 07-AFC-6

### COMMITTEE BRIEFING ORDER AND REVISED SCHEDULE

As the Committee predicted at the close of the evidentiary hearings, work on renewable energy projects has taken most of our resources and will continue to do so at least through September. With that in mind, we set the deadline for filing opening briefs on **Wednesday, August 18, 2010**. Reply briefs are due on **Wednesday, September 22, 2010**.

Following receipt and review of the reply briefs and subject to renewable project demands, we will issue a Presiding Member's Proposed Decision (PMPD). A 30-day comment period will begin upon the PMPD's release. We cannot set a precise date for the release of the PMPD at this time but the events following its release will occur on approximately the intervals set forth in the attached Revised Committee Schedule.

#### Briefing topics

In the opening briefs the parties shall specifically address and argue any objections that they may have to the motions of the Applicant, the City of Carlsbad, and Terramar Association to augment the evidentiary record with additional documentary evidence. A previously filed response will suffice and need not be repeated in the brief. The Committee may rule on the motions at any time following the filing of opening briefs.

The following list of topics to discuss in the briefs is offered for the convenience of the parties and the Committee. By using a common list, we hope that the arguments will be easier for all parties and the public to follow and for the Committee to address in the PMPD. These topics are those about which the Committee desires to hear from the parties; the parties are not required to address each of these topics and may address topics not listed below. The briefs are the parties' opportunity to offer their assessment of the evidence, what we should conclude it means (factual findings), and how we should apply relevant laws to the facts (conclusions of law). It will be helpful if the briefs are organized according to the topic areas used in the Final Staff Assessment and at our Evidentiary Hearings.

## **Briefing Topics**

### **1. PROJECT'S ENVIRONMENTAL IMPACTS**

- a. Are there any unmitigated significant direct, indirect, or cumulative environmental impacts of the Carlsbad Energy Center Project (CECP)?
- b. Is the potential shutdown of Encina Units 4 and 5 part of the project and must the impacts of such a shutdown be evaluated as part of the CECP?
- c. Has a reasonable range of project alternatives been evaluated?

### **2. PROJECT'S LORS COMPLIANCE**

- a. Does the project comply with federal, state, and local laws, ordinance, regulation, or standards (LORS), including the Coastal Act and the City's General Plan, zoning, redevelopment, and other regulations
- b. Is the project "coastal dependent"?
- c. Is it a utility or public utility as those terms are used in the City's regulations?
- d. Is a comprehensive update of City Specific Plan 144 required for CECP?
- e. Is a Precise Development Plan in the nature of a Specific Plan or a permit similar to a Conditional Use Permit?
- f. Does the Warren-Alquist Act preempt the City Redevelopment Agency's permitting authority?
- g. Does the Warren-Alquist Act preempt the City's approval authority over the stormwater pollution prevention plan?
- h. Does the Warren-Alquist Act give the California Energy Commission the authority to decide whether and where the Rail Trail can be built on the project site?
- i. Must the Coastal Commission issue a report before the Commission can act on the Project's application?
- j. Does the recently adopted City Urgency Ordinance CS-070, prohibiting the processing of permit applications for power plants, have any effect on the Commission's processing or consideration of the CECP Application for Certification (AFC)?

- k. What specific City development standards (height limits, setbacks, fire equipment access, etc.) apply to the project and does it comply with those standards?
- l. What deference, if any, should be given to the City's interpretation and application of its LORS (see, e.g., Cal. Code Regs., tit. 20, § 1744)?
- m. What relevance and weight do the Commission's Notice of Intent proceedings in 1989 and 1990 have in this proceeding?

3. **GREENHOUSE GASES**

- a. Describe the findings and conclusions you believe the Commission should make regarding greenhouse gas emissions of the CECP.
- b. Should the greenhouse gas emissions of LNG be included in the estimation of the CECP's potential GHG emissions?

4. **OTHER ISSUES**

- a. What is the relevance, if any, of the status of electricity purchasing contracts for CECP's output to the Commission's evaluation of the AFC?

5. **CONDITIONS OF CERTIFICATION**

- a. Discuss the changes proposed to the Staff-recommended Conditions of Certification by Staff, the Applicant or any other party.

6. **OVERRIDES**

- a. An override of significant environmental impacts, inconsistency with state or local LORS, or both, may be required in order to approve the project.
- b. Discuss whether the Commission should adopt overrides and if so, on what grounds, citing specific facts and conclusions justifying an override.

Dated July 12, 2010, at Sacramento, California.

*Original signed by:*  
\_\_\_\_\_  
JAMES D. BOYD  
Vice Chair and Presiding Member  
Carlsbad AFC Committee

*Original signed by:*  
\_\_\_\_\_  
ANTHONY EGGERT  
Commissioner and Associate Member  
Carlsbad AFC Committee

**REVISED COMMITTEE SCHEDULE  
FOR THE  
CARLSBAD ENERGY CENTER PROJECT  
(07-AFC-6)**

<b>DATE</b>	<b>EVENT</b>
October 31, 2007	AFC Data-adequate
December 17, 2007	Site Visit and Informational Hearing
January 21, 2010	Prehearing Conference
February 1 – 4, 2010	Evidentiary Hearings
August 18, 2010	Opening Briefs filed
September 22, 2010	Reply Briefs filed
Tbd, following receipt of Reply Briefs	Presiding Member's Proposed Decision (PMPD) issued for 30 day comment period
Tbd (near the end of PMPD comment period)	PMPD Committee Conference (Comment Hearing)
Shortly after PMPD comment period ends	Revised PMPD issued* for 15 day review period*
Tbd (shortly after PMPD or revised PMPD comment period ends)	Energy Commission Decision Adoption Hearing

Tbd = to be determined; \* if necessary.

July 9, 2010



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**APPLICATION FOR CERTIFICATION  
FOR THE CARLSBAD ENERGY  
CENTER PROJECT**

**Docket No. 07-AFC-6  
PROOF OF SERVICE**  
(Revised 6/14/2010)

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### DECLARATION OF SERVICE

I, Maggie Read, declare that on July 12, 2010, I served and filed copies of the attached Committee Briefing Order and Revised Schedule. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: <http://www.energy.ca.gov/sitingcases/carlsbad/index.html>. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

*(Check all that Apply)*

**For service to all other parties:**

☒ sent electronically to all email addresses on the Proof of Service list;

☐ by personal delivery;

☒ by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

**AND**

**For filing with the Energy Commission:**

☒ sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

**OR**

☐ depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 07-AFC-6

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I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original signed by:  
*Maggie Read*